

SENATE BILL No. 241

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5.

Synopsis: Sales tax exemption for special fuel. Specifies that a claim must be filed to obtain a refund of state sales taxes paid on purchases of special fuel that are exempt from the state sales tax. Eliminates the use of an exemption certificate for these transactions. Requires that the state sales tax must be included in the price at all pumps dispensing special fuel, and eliminates special fuel pumps for exempt trucks.

Effective: July 1, 2016.

Walker

January 7, 2016, read first time and referred to Committee on Tax & Fiscal Policy.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 241

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.5-5-27, AS AMENDED BY P.L.226-2014(ts),
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 27. (a) Except as provided in subsection (b),
4 transactions involving tangible personal property and services are
5 exempt from the state gross retail tax, if the person acquiring the
6 property or service directly uses or consumes it in providing public
7 transportation for persons or property.
8 (b) Except as provided in subsection (c), a transaction involving a
9 natural gas product (as defined by IC 6-6-2.5-16.5) acquired:
10 (1) after December 31, 2013, and before January 1, 2017; and
11 (2) to fuel a motor vehicle used in providing public transportation
12 for persons or property;
13 is not exempt from the state gross retail tax.
14 (c) Subsection (b) does not apply to transactions involving a natural
15 gas product purchased by a public transportation corporation to fuel a
16 motor vehicle used to provide public transportation for persons.
17 (d) To obtain the exemption provided by subsection (a) for a



1 **transaction involving special fuel, as defined in IC 6-6-2.5-22, a**
 2 **claim for refund must be filed under IC 6-2.5-7-4.**

3 SECTION 2. IC 6-2.5-7-2, AS AMENDED BY P.L.227-2013,
 4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2016]: Sec. 2. ~~Except as provided in section 2.5 of this~~
 6 ~~chapter,~~ A retail merchant who uses a metered pump to dispense
 7 special fuel shall display on the pump the total price per unit of the
 8 special fuel. ~~Subject to the provisions of section 2.5 of this chapter,~~ A
 9 retail merchant may not advertise the special fuel at a price that is
 10 different than the price that the retail merchant is required to display on
 11 the metered pump.

12 SECTION 3. IC 6-2.5-7-2.5 IS REPEALED [EFFECTIVE JULY 1,
 13 2016]. Sec. 2.5: (a) This section does not apply to alternative fuel (as
 14 defined by IC 6-6-2.5-1) dispensed after December 31, 2013; and
 15 before January 1, 2017:

16 (b) A retail merchant may designate any metered pumps at a
 17 business location that dispense special fuel as being "for trucks only".
 18 To do this, a retail merchant must place on the pump a sign that states
 19 that fuel dispensed from the metered pump may only be placed in the
 20 fuel supply tanks of a truck. A sign that reads "TRUCKS ONLY" is
 21 sufficient to meet the requirements of this subsection:

22 (c) A retail merchant may not dispense special fuel from a metered
 23 pump that is designated for trucks only into the supply tank of a vehicle
 24 that is not a truck:

25 (d) A retail merchant is not required to display the total price per
 26 unit of the special fuel on a metered pump if that particular metered
 27 pump is designated for trucks only:

28 (e) A retail merchant may advertise special fuel at a price that does
 29 not include gross retail taxes that may be due on the sale of the special
 30 fuel only if the retail merchant maintains a metered pump that is
 31 designated for trucks only: If a retail merchant advertises special fuel
 32 at a price that does not include any gross retail taxes that may be due
 33 on the sale of the special fuel, the retail merchant must display in easily
 34 read lettering above or below the advertised price the words "EXEMPT
 35 TRUCKS ONLY".

36 SECTION 4. IC 6-2.5-7-3, AS AMENDED BY P.L.227-2013,
 37 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2016]: Sec. 3. With respect to the sale of special fuel or
 39 kerosene which is dispensed from a metered pump, ~~unless the~~
 40 ~~purchaser provides an exemption certificate in accordance with~~
 41 ~~IC 6-2.5-8-8,~~ a retail merchant shall collect, for each unit of special fuel
 42 or kerosene sold, state gross retail tax in an amount equal to the



product, rounded to the nearest one-tenth of one cent (\$0.001), of:

- (1) the price per unit before the addition of state and federal taxes; multiplied by
- (2) seven percent (7%).

~~Unless the exemption certificate is provided;~~ The retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

SECTION 5. IC 6-2.5-8-8, AS AMENDED BY P.L.242-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) **Except as provided in subsection (g)**, a person, authorized under subsection (b), who makes a purchase in a transaction which is exempt from the state gross retail and use taxes, may issue an exemption certificate to the seller instead of paying the tax. The person shall issue the certificate on forms and in the manner prescribed by the department. A seller accepting a proper exemption certificate under this section has no duty to collect or remit the state gross retail or use tax on that purchase.

(b) The following are the only persons authorized to issue exemption certificates:

- (1) Retail merchants, wholesalers, and manufacturers, who are registered with the department under this chapter.
- (2) Organizations which are exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and which are registered with the department under this chapter.
- (3) Persons who are exempt from the state gross retail tax under IC 6-2.5-4-5 and who receive an exemption certificate from the department.
- (4) Other persons who are exempt from the state gross retail tax with respect to any part of their purchases.

(c) The department may also allow a person to issue a blanket exemption certificate to cover exempt purchases over a stated period of time. The department may impose conditions on the use of the blanket exemption certificate and restrictions on the kind or category of purchases that are exempt.

(d) A seller that accepts an incomplete exemption certificate under subsection (a) is not relieved of the duty to collect gross retail or use tax on the sale unless the seller obtains:

- (1) a fully completed exemption certificate; or
- (2) the relevant data to complete the exemption certificate; within ninety (90) days after the sale.

(e) If a seller has accepted an incomplete exemption certificate under subsection (a) and the department requests that the seller



1 substantiate the exemption, within one hundred twenty (120) days after
2 the department makes the request the seller shall:

3 (1) obtain a fully completed exemption certificate; or

4 (2) prove by other means that the transaction was not subject to
5 state gross retail or use tax.

6 (f) A power subsidiary (as defined in IC 6-2.5-4-5) or a person
7 selling the services or commodities listed in IC 6-2.5-4-5(b) who
8 accepts an exemption certificate issued by the department to a person
9 who is exempt from the state gross retail tax under IC 6-2.5-4-5 is
10 relieved from the duty to collect state gross retail or use tax on the sale
11 of the services or commodities listed in IC 6-2.5-4-5(b) until notified
12 by the department that the exemption certificate has expired or has
13 been revoked. If the department notifies a power subsidiary or a person
14 selling the services or commodities listed in IC 6-2.5-4-5(b) that a
15 person's exemption certificate has expired or has been revoked, the
16 power subsidiary or person selling the services or commodities listed
17 in IC 6-2.5-4-5(b) shall begin collecting state gross retail tax on the sale
18 of the services or commodities listed in IC 6-2.5-4-5(b) to the person
19 whose exemption certificate has expired or been revoked not later than
20 thirty (30) days after the date of the department's notice. An exemption
21 certificate issued by the department to a person who is exempt from the
22 state gross retail tax under IC 6-2.5-4-5 remains valid for that person
23 regardless of any subsequent one (1) for one (1) meter number changes
24 with respect to that person that are required, made, or initiated by a
25 power subsidiary or a person selling the services or commodities listed
26 in IC 6-2.5-4-5(b). Within thirty (30) days after the final day of each
27 calendar year quarter, a power subsidiary or a person selling the
28 services or commodities listed in IC 6-2.5-4-5(b) shall report to the
29 department any meter number changes made during the immediately
30 preceding calendar year quarter and distinguish between the one (1) for
31 one (1) meter changes and the one (1) for multiple meter changes made
32 during the calendar year quarter. Except for a person to whom a blanket
33 utility exemption applies, any meter number changes not involving a
34 one (1) to one (1) relationship will no longer be exempt and will
35 require the person to submit a new utility exemption application for the
36 new meters. Until an application for a new meter is approved, the new
37 meter is subject to the state gross retail tax and the power subsidiary or
38 the person selling the services or commodities listed in IC 6-2.5-4-5(b)
39 is required to collect the state gross retail tax from the date of the meter
40 change.

41 **(g) An exemption certificate may not be issued to cover special**
42 **fuel transactions that may be exempt under IC 6-2.5-5-27.**

